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FISCAL IMPACT STATEMENT

LS 6995

BILL NUMBER: HB 1544

NOTE PREPARED: Apr 6, 2013

BILL AMENDED: Apr 4, 2013

SUBJECT: Various Tax Matters.

FIRST AUTHOR: Rep. Turner

FIRST SPONSOR: Sen. Hershman

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Abatements:* This bill amends the law regarding economic revitalization areas to:

- (1) Allow a designating body to establish an abatement schedule in all cases (current law allows designating bodies to establish an alternative abatement schedule);
- (2) Provide that an abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits;
- (3) Repeal a statute authorizing enhanced abatements; and
- (4) Remove references to deadline dates that have already passed.

Common Areas: The bill defines the term "common areas" for purposes of the circuit breaker credit law. It provides that for purposes of the circuit breaker credit, the land that is a common area shared by dwelling units of a building that includes two or more dwelling units is considered "residential property". (Current law limits the land eligible to be classified as "residential property" to only the area of the building footprint.)

Interest Rate: This bill specifies that if a taxpayer is entitled to a property tax refund or credit because an assessment is decreased, the interest rate on the refund is the rate established for excess tax payments by the Commissioner of the Department of State Revenue (DOR) (rather than 4%, under current law). The bill provides that: (1) the interest on property tax refunds or credits paid to a taxpayer; and (2) the interest paid by a taxpayer if an assessment is increased after a petition for review or a judicial proceeding has been pending; shall be calculated at the rate in effect for each year.

Sales Tax Zapper Penalty: The bill also imposes a Class C felony penalty for sale, purchase, installation, transfer, or possession of an automated sales suppression device ("zapper") or phantom-ware.

Effective Date: March 1, 2013 (retroactive); July 1, 2013.

Explanation of State Expenditures: *Sales Tax Zapper Penalty:* A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Explanation of State Revenues: *Sales Tax Zapper Penalty:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Sales Tax Zapper Penalty:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

(Revised) *Interest Rate:* This provision would require that all interest collected by the county treasurer on property tax bills and interest paid to taxpayers on property tax refunds is calculated at the interest rate set by the DOR Commissioner. In addition, this provision requires that the appropriate year's interest rate applies for each year of the interest calculation.

This provision could increase or reduce interest payments to taxpayers, depending on whether the DOR interest rate is higher or lower than 4% for a given year. Property tax refunds reduce current year property tax collections for civil taxing units and school corporations.

Under current law, the interest rate used to compute interest payments to a taxpayer who receives a property tax refund because of a reduction in assessed value is 4% per year. The 2013 DOR interest rate is 3%. The last five years of DOR interest rates are as follows:

Year	Interest Rate
2009	7%
2010	4%
2011	9%
2012	4%
2013	3%

The interest rate is currently equal to the rate set by DOR if the taxes are refunded because:

- (1) Taxes were paid more than once;

- (2) The taxes were illegal; or
- (3) There was a mathematical error in the computation of either the assessment or the taxes.

Interest paid by taxpayers for additional taxes billed because of assessments made or increased after the tax due date is currently charged at the DOR rate.

Explanation of Local Revenues: *Residential Circuit Breaker:* The bill defines common areas for purposes of the circuit breaker cap beginning with taxes payable in CY 2014. CY 2012 tax bills for apartments and other non-homestead residential property were examined to estimate the fiscal impact of this provision. The application of the 2% cap to the entire property would have reduced net taxes and increased revenue losses due to the circuit breaker in CY 2012 by a total of about \$17.2 M. Apartment net taxes would be reduced by \$8.3 M while other nonhomestead residential property tax would be reduced by about \$8.9 M. The \$17.2 M for CY 2012 would have to be refunded. Property tax refunds reduce current year property tax revenue for the taxing units that provide services to the property. The estimated annual revenue loss in future years is about the same.

The treatment of common areas as residential property for circuit breaker purposes also makes them eligible for residential property tax credits that counties may optionally provide from LOIT revenues. A fixed total amount of credits is spread among all eligible residential properties in the county. The additional eligible properties would cause a very slight decrease in residential credits for existing residential property.

Background: Under current law, residential property that is not a homestead is subject to the 2% circuit breaker cap. Nonhomestead residential property includes the dwelling, common areas, and land matching the building footprint.

Beginning with taxes payable in CY 2014, this bill would define common areas to include roads, swimming pools, tennis courts, basketball courts, playgrounds, carports, garages, other parking areas, gazebos, decks, and patios, and all land used in connection with a building or structure. Most of these items currently qualify under the 3% circuit breaker cap but would qualify for the 2% cap under this bill.

Abatements: Currently, designating bodies may use the statutory abatement schedules or they may use an alternative abatement schedule. In the alternative schedule, the percentage of deduction and the length of the abatement, not to exceed 10 years, is set by the designating body based on the following factors:

1. The total amount of the taxpayer's investment;
2. The number of new jobs created and the average wage as compared to minimum wage; and
3. The infrastructure requirements for the taxpayer's investment.

This bill would repeal the statutory schedule and would require designating bodies to establish an abatement schedule for each deduction allowed. Most deductions would be unaffected as the alternative schedules may now be used in most cases.

However, under current law, abatements in residentially distressed areas are limited to 5 years rather than ten years. Also, abatements for eligible vacant buildings are limited to 2 years. Under this provision, the designating body could authorize all abatements for up to 10 years. The terms of each abatement would be a local decision.

Sales Tax Zapper Penalty: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Local assessors; County auditors; Local civil taxing units and school corporations; Trial courts, local law enforcement agencies.

Information Sources: LSA parcel-level property tax database.

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